

HOUSE BILL No. 1941

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20-3.1; IC 21-5.

Synopsis: School lease petition and remonstrance process. Provides that the decision of the department of local government finance concerning the proposed leasing of a school building by a school corporation may be contested through a petition and remonstrance process if the lease involves a bond with principal that exceeds \$1,000,000.

Effective: July 1, 2003.

Thompson

January 23, 2003, read first time and referred to Committee on Ways and Means.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1941

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-20-3.1, AS AMENDED BY P.L.178-2002,
2 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 3.1. A political subdivision may not impose
4 property taxes to pay debt service or lease rentals without completing
5 the following procedures:

6 (1) The proper officers of a political subdivision shall:

7 (A) publish notice in accordance with IC 5-3-1; and

8 (B) send notice by first class mail to any organization that
9 delivers to the officers, before January 1 of that year, an annual
10 written request for such notices;

11 of any meeting to consider adoption of a resolution or an
12 ordinance making a preliminary determination to issue bonds or
13 enter into a lease and shall conduct a public hearing on a
14 preliminary determination before adoption of the resolution or
15 ordinance.

16 (2) When the proper officers of a political subdivision make a
17 preliminary determination to issue bonds or enter into a lease, the



C
o
p
y

officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) When a petition and remonstrance process concerning the lease rental is initiated under IC 21-5-11-7 or IC 21-5-12-7, the start of the thirty (30) day period under clause (E) is temporarily stayed and begins on the date of the county auditor's certification under IC 21-5-11-7(d)(6) or IC 21-5-12-7(d)(6).

(G) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

~~(G)~~ **(H)** A statement of whether the school corporation expects to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause ~~(F)~~: **(G)**.

(4) After notice is given a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) two hundred fifty (250) owners of real property within the political subdivision; or

(B) ten percent (10%) of the owners of real property within the

C
o
p
y



- 1 political subdivision.
- 2 (5) Each petition must be verified under oath by at least one (1)
- 3 qualified petitioner in a manner prescribed by the state board of
- 4 accounts before the petition is filed with the county auditor under
- 5 subdivision (6).
- 6 (6) Each petition must be filed with the county auditor not more
- 7 than thirty (30) days after publication under subdivision (2) of the
- 8 notice of the preliminary determination.
- 9 (7) The county auditor must file a certificate and each petition
- 10 with:
- 11 (A) the township trustee, if the political subdivision is a
- 12 township, who shall present the petition or petitions to the
- 13 township board; or
- 14 (B) the body that has the authority to authorize the issuance of
- 15 the bonds or the execution of a lease, if the political
- 16 subdivision is not a township;
- 17 within fifteen (15) business days of the filing of the petition
- 18 requesting a petition and remonstrance process. The certificate
- 19 must state the number of petitioners that are owners of real
- 20 property within the political subdivision.
- 21 If a sufficient petition requesting a petition and remonstrance process
- 22 is not filed by owners of real property as set forth in this section, the
- 23 political subdivision may issue bonds or enter into a lease by following
- 24 the provisions of law relating to the bonds to be issued or lease to be
- 25 entered into.
- 26 SECTION 2. IC 21-5-11-7 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) When the lessor
- 28 corporation and the school corporation or corporations have agreed
- 29 upon the terms and conditions of any lease proposed to be entered into
- 30 pursuant to the terms and conditions of this chapter and before the final
- 31 execution of such lease a notice shall be given by publication to all
- 32 persons interested of a hearing to be held before the board of school
- 33 trustees, the township board, or the body or bodies vested with
- 34 authority to approve the lease, or a joint meeting thereof, which hearing
- 35 shall be on a day not earlier than ten (10) days if new construction is
- 36 proposed or thirty (30) days if improvement or expansion is proposed
- 37 after the publication of such notice. The notice of such hearing shall be
- 38 published one (1) time in a newspaper of general circulation printed in
- 39 the English language in the school corporation, or one (1) of the same
- 40 if the proposed lease be a joint lease, or if no such paper be published
- 41 therein, then in any newspaper of general circulation published in the
- 42 county. Such notice shall name the day, place, and hour of such hearing

C
o
p
y



1 and shall set forth a brief summary of the principal terms of the lease
 2 agreed upon, including the location, name of the proposed lessor
 3 corporation and character of the property to be leased, the rental to be
 4 paid, and the number of years the contract is to be in effect. The
 5 proposed lease, drawings, plans, specifications, and estimates for such
 6 school building or buildings shall be available for inspection by the
 7 public during said ten (10) day or thirty (30) day period and at said
 8 meeting.

9 (b) All persons interested shall have a right to be heard at the time
 10 fixed, upon the necessity for the execution of such lease and whether
 11 the rental provided for therein to be paid to the lessor corporation is a
 12 fair and reasonable rental for the proposed building. Such hearing may
 13 be adjourned to a later date or dates, and **within not later than** thirty
 14 (30) days following the termination of such hearing the board of school
 15 trustees, township board, or governing body or bodies of such school
 16 corporation or corporations may by a majority vote of all its members
 17 either authorize the execution of such lease as originally agreed upon,
 18 or make such modifications therein as may be agreed upon with such
 19 lessor corporation, but in no event shall the lease rentals as set out in
 20 the published notice be increased. The cost of the publication of the
 21 notice shall be borne by the lessor corporation.

22 (c) In the event the execution of the lease as originally agreed upon,
 23 or as modified by agreement, is authorized by such board of school
 24 trustees, township board, or governing body or bodies of such school
 25 corporation or corporations, such board or governing body shall give
 26 notice of the signing of said contract by publication one (1) time in a
 27 newspaper of general circulation printed in the English language in the
 28 school corporation, or one (1) of the same if the proposed lease be a
 29 joint lease, or if no such newspaper be published therein, then in any
 30 newspaper of general circulation published in the county. Fifty (50) or
 31 more taxpayers in such school corporation or corporations who will be
 32 affected by the proposed lease and who may be of the opinion that no
 33 necessity exists for the execution of such lease, or that the proposed
 34 rental provided for therein is not a fair and reasonable rental, may file
 35 a petition in the office of the county auditor of the county in which such
 36 school corporation or corporations is located, **within not later than**
 37 thirty (30) days after publication of notice of the execution of such
 38 lease, setting forth their objections thereto and facts showing that the
 39 execution of the lease is unnecessary or unwise, or that the lease rental
 40 is not fair and reasonable, as the case may be. Upon the filing of any
 41 such petition, the county auditor shall immediately certify a copy
 42 thereof, together with such other data as may be necessary in order to

C
o
p
y



1 present the questions involved, to the department of local government
 2 finance, and upon the receipt of such certified petition and information,
 3 the department shall fix a time and place for the hearing of such matter
 4 which shall not be less than five (5) nor more than thirty (30) days
 5 thereafter, and said hearing shall be held in the school corporation or
 6 corporations, or in the county where such school corporations are
 7 located. Notice of the hearing shall be given by the department of local
 8 government finance to the members of the board of school trustees,
 9 township board, or governing body or bodies of such school
 10 corporation or corporations, and to the first fifty (50)
 11 taxpayer-petitioners upon such petition by a letter signed by the
 12 commissioner or deputy commissioner of the department, and enclosed
 13 with full prepaid postage addressed to such persons at their usual place
 14 of residence, at least five (5) days before the date of such hearing.

15 **(d) If the bond principal required by the lessor corporation to**
 16 **obtain the building to be leased is less than or equal to one million**
 17 **dollars (\$1,000,000), the decision of the department of local**
 18 **government finance on such appeal after a hearing under subsection**
 19 **(c) upon the necessity for the execution of said lease and as to whether**
 20 **the rental is fair and reasonable shall be final. If the bond principal**
 21 **required by the lessor corporation to obtain the building to be**
 22 **leased exceeds one million dollars (\$1,000,000), either ten (10)**
 23 **taxpayer petitioners or the lessee school corporation may appeal**
 24 **the decision of the department of local finance under subsection (c)**
 25 **through the following petition and remonstrance procedures:**

26 **(1) Taxpayer petitioners who initiate the procedures must give**
 27 **written notice requesting the use of the petition and**
 28 **remonstrance process to the school corporation or**
 29 **corporations not later than fourteen (14) days after the date**
 30 **of the decision of the department of local finance.**

31 **(2) The proper officers of the school corporation or**
 32 **corporations shall give notice of the applicability of the**
 33 **petition and remonstrance process by publication in**
 34 **accordance with IC 5-3-1. The school corporation or**
 35 **corporations shall bear the costs associated with the petition**
 36 **and remonstrance process. A notice under this subdivision**
 37 **must include a statement that any owners of real property**
 38 **within the school corporation or corporations who want to**
 39 **petition in favor of or remonstrate against the proposed lease**
 40 **payments must file petitions and remonstrances in compliance**
 41 **with subdivisions (3) through (5) not earlier than thirty (30)**
 42 **days or later than sixty (60) days after publication in**

C
o
p
y



1 accordance with IC 5-3-1.

2 (3) Not earlier than thirty (30) days or later than sixty (60)
3 days after the notice under subdivision (2) is given:

4 (A) petitions as described in subdivision (4) in favor of the
5 lease; and

6 (B) remonstrances as described in subdivision (4) against
7 the lease;

8 may be filed by an owner or owners of real property within
9 the school corporation or corporations. Each signature on a
10 petition must be dated, and the date of signature may not be
11 before the date on which the petition and remonstrance forms
12 may be issued under subdivision (4). A petition described in
13 clause (A) or a remonstrance described in clause (B) must be
14 verified in compliance with subdivision (5) before the petition
15 or remonstrance is filed with the county auditor under
16 subdivision (5).

17 (4) The state board of accounts shall design and, upon request
18 by the county auditor, deliver to the county auditor or the
19 county auditor's designated printer the petition and
20 remonstrance forms to be used solely in the petition and
21 remonstrance process described in this section. The county
22 auditor shall issue to an owner or owners of real property
23 within the political subdivision the number of petition or
24 remonstrance forms requested by the owner or owners. Each
25 form must be accompanied by instructions detailing the
26 requirements that:

27 (A) the carrier and signers must be owners of real
28 property;

29 (B) the carrier must be a signatory on at least one (1)
30 petition;

31 (C) after the signatures have been collected, the carrier
32 must swear or affirm before a notary public that the
33 carrier witnessed each signature; and

34 (D) govern the closing date for the petition and
35 remonstrance period.

36 Persons requesting forms may not be required to identify
37 themselves and may be allowed to pick up additional copies to
38 distribute to other property owners. The county auditor may
39 not issue a petition or remonstrance form earlier than
40 twenty-nine (29) days after the notice is given under
41 subdivision (2). The county auditor shall certify the date of
42 issuance on each petition or remonstrance form that is

C
o
p
y



distributed under this subdivision.

(5) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the thirty (30) day period described in subdivision (3).

(6) The county auditor must file a certificate and the petition or remonstrance with the school corporation or corporations not later than fifteen (15) business days after the filing of a petition or remonstrance under subdivision (5), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators who are owners of real property within the political subdivision.

(7) If the number of owners of real property within the political subdivision who sign a remonstrance is greater than the number who sign a petition, the lease petitioned for may not be entered into. The proper officers of the school corporation or corporations may not enter into a lease for the project defeated by the petition and remonstrance process under this section or any other project that is not substantially different within one (1) year after the date of the county auditor's certificate under subdivision (6). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(8) After a school corporation has gone through the petition and remonstrance process set forth in this section, the school corporation must follow any other law (including IC 6-1.1-20-3.2) designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals.

~~(d)~~ (e) No action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease shall be instituted at any time later than:

- (1) thirty (30) days after publication of notice of the execution of the lease by the board of school trustees, township board, or governing body or bodies of such corporation or corporations; ~~or~~
- (2) if an appeal ~~has been~~ is taken to the department of local government finance, ~~then~~ within thirty (30) days after the decision of the department; ~~or~~

C
o
p
y



(3) if the petition and remonstrance process is used, not later than thirty (30) days after the county auditor's certificate is filed under subsection (d)(6).

SECTION 3. IC 21-5-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) When the lessor corporation and the school corporation or corporations have agreed upon the terms and conditions of any lease proposed to be entered into pursuant to the terms and conditions of this chapter and before the final execution of such lease a notice shall be given by publication to all persons interested of a hearing to be held before the board of school trustees, the township board, or the body or bodies vested with authority to approve the lease, or a joint meeting thereof, which hearing shall be on a day not earlier than ten (10) days if new construction is proposed or thirty (30) days if improvement or expansion is proposed after the publication of such notice. The notice of such hearing shall be published one (1) time in a newspaper of general circulation printed in the English language in the school corporation, or one (1) of the same if the proposed lease be a joint lease, or if no such paper be published therein, then in any newspaper of general circulation published in the county. Such notice shall name the day, place, and hour of such hearing and shall set forth a brief summary of the principal terms of the lease agreed upon, including the location, name of the proposed lessor corporation and character of the property to be leased, the rental to be paid, and the number of years the contract is to be in effect. The proposed lease, drawings, plans, specifications, and estimates for such school building or buildings shall be available for inspection by the public during said ten (10) day or thirty (30) day period and at said meeting.

(b) All persons interested shall have a right to be heard at the time fixed, upon the necessity for the execution of such lease and whether the rental provided for therein be paid to the lessor corporation is a fair and reasonable rental for the proposed building. Such hearing may be adjourned to a later date or dates, and ~~within~~ **not later than** thirty (30) days following the termination of such hearing the board of school trustees, township board, or governing body or bodies of such school corporation or corporations may by a majority vote of all its members either authorize the execution of such lease as originally agreed upon or may make such modifications therein as may be agreed upon with such lessor corporation, but in no event shall the lease rentals as set out in the published notice be increased. The cost of the publication of the notice shall be borne by lessor corporations.

~~(b)~~ **(c)** In the event the execution of the lease as originally agreed

C
O
P
Y



upon, or as modified by agreement, is authorized by such board of school trustees, township board, or governing body or bodies of such school corporation or corporations, such board or governing body shall give notice of the signing of said contract by publication one (1) time in a newspaper of general circulation printed in the English language in the school corporation, or one (1) of the same if the proposed lease be a joint lease, or if no such newspaper be published therein, then in any newspaper of general circulation published in the county. Ten (10) or more taxpayers in such school corporation or corporations, who will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of such lease, or that the proposed rental provided for therein is not a fair and reasonable rental, may file a petition in the office of the county auditor of the county in which such school corporation or corporations is located, **within not later than** thirty (30) days after publication of notice of the execution of such lease, setting forth their objections thereto and facts showing that the execution of the lease is unnecessary or unwise, or that the lease rental is not fair and reasonable as the case may be. Upon the filing of any such petition, the county auditor shall immediately certify a copy thereof, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance, and upon the receipt of such certified petition and information, the department shall fix a time and place for the hearing of such matter which shall not be less than five (5) nor more than thirty (30) days thereafter, and said hearing shall be in the school corporation or corporations, or in the county where such school corporations are located. Notice of the hearing shall be given by the department of local government finance to the members of the board of school trustees, township board, or governing body or bodies of such school corporation or corporations, and to the first ten (10) taxpayer-petitioners upon such petition by a letter signed by the commissioner or deputy commissioner of the department, and enclosed with full prepaid postage addressed to such persons at their usual place of residence, at least five (5) days before the date of such hearing. ~~The decision of the department of local government finance on such appeal, upon the necessity for the execution of said lease and as to whether the rental is fair and reasonable, shall be final.~~

(d) If the bond principal required by the lessor corporation to obtain the building to be leased is less than or equal to one million dollars (\$1,000,000), the decision of the department of local government finance after a hearing under subsection (c) upon the necessity for the execution of the lease and as to whether the rental

C
o
p
y



1 is fair and reasonable is final. If the bond principal required by the
 2 lessor corporation to obtain the building to be leased exceeds one
 3 million dollars (\$1,000,000), either ten (10) taxpayer petitioners or
 4 the lessee school corporation may appeal the decision of the
 5 department of local finance under subsection (c) through the
 6 following petition and remonstrance procedures:

7 (1) Taxpayer petitioners who initiate the procedure must give
 8 written notice requesting the use of the petition and
 9 remonstrance process to the school corporation or
 10 corporations not later than fourteen (14) days after the date
 11 of the decision of the department of local finance.

12 (2) The proper officers of the school corporation or
 13 corporations shall give notice of the applicability of the
 14 petition and remonstrance process by publication in
 15 accordance with IC 5-3-1. The school corporation or
 16 corporations shall bear the costs associated with the petition
 17 and remonstrance process. A notice under this subdivision
 18 must include a statement that any owners of real property
 19 within the school corporation or corporations who want to
 20 petition in favor of or remonstrate against the proposed lease
 21 payments must file petitions and remonstrances in compliance
 22 with subdivisions (3) through (5) not earlier than thirty (30)
 23 days or later than sixty (60) days after publication in
 24 accordance with IC 5-3-1.

25 (3) Not earlier than thirty (30) days or later than sixty (60)
 26 days after the notice under subdivision (2) is given:

27 (A) petitions as described in subdivision (4) in favor of the
 28 lease; and

29 (B) remonstrances as described in subdivision (4) against
 30 the lease;

31 may be filed by an owner or owners of real property within
 32 the school corporation or corporations. Each signature on a
 33 petition must be dated, and the date of signature may not be
 34 before the date on which the petition and remonstrance forms
 35 may be issued under subdivision (4). A petition described in
 36 clause (A) or a remonstrance described in clause (B) must be
 37 verified in compliance with subdivision (5) before the petition
 38 or remonstrance is filed with the county auditor under
 39 subdivision (6).

40 (4) The state board of accounts shall design and, upon request
 41 by the county auditor, deliver to the county auditor or the
 42 county auditor's designated printer the petition and

C
o
p
y



1 remonstrance forms to be used solely in the petition and
 2 remonstrance process described in this section. The county
 3 auditor shall issue to an owner or owners of real property
 4 within the political subdivision the number of petition or
 5 remonstrance forms requested by the owner or owners. Each
 6 form must be accompanied by instructions detailing the
 7 requirements that:

8 (A) the carrier and signers must be owners of real
 9 property;

10 (B) the carrier must be a signatory on at least one (1)
 11 petition;

12 (C) after the signatures have been collected, the carrier
 13 must swear or affirm before a notary public that the
 14 carrier witnessed each signature; and

15 (D) govern the closing date for the petition and
 16 remonstrance period.

17 Persons requesting forms may not be required to identify
 18 themselves and may be allowed to pick up additional copies to
 19 distribute to other property owners. The county auditor may
 20 not issue a petition or remonstrance form earlier than
 21 twenty-nine (29) days after the notice is given under
 22 subdivision (2). The county auditor shall certify the date of
 23 issuance on each petition or remonstrance form that is
 24 distributed under this subdivision.

25 (5) The petitions and remonstrances must be verified in the
 26 manner prescribed by the state board of accounts and filed
 27 with the county auditor within the thirty (30) day period
 28 described in subdivision (3).

29 (6) The county auditor must file a certificate and the petition
 30 or remonstrance with the school corporation or corporations
 31 not later than fifteen (15) business days after the filing of a
 32 petition or remonstrance under subdivision (5), whichever
 33 applies, containing ten thousand (10,000) signatures or less.
 34 The county auditor may take an additional five (5) days to
 35 review and certify the petition or remonstrance for each
 36 additional five thousand (5,000) signatures up to a maximum
 37 of sixty (60) days. The certificate must state the number of
 38 petitioners and remonstrators who are owners of real
 39 property within the political subdivision.

40 (7) If the number of owners of real property within the
 41 political subdivision who sign a remonstrance is greater than
 42 the number who sign a petition, the lease petitioned for may

C
o
p
y



not be entered into. The proper officers of the school corporation or corporations may not enter into a lease for the project defeated by the petition and remonstrance process under this section or any other project that is not substantially different within one (1) year after the date of the county auditor's certificate under subdivision (6). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(8) After a school corporation has gone through the petition and remonstrance process set forth in this section, the school corporation is required to follow any other law (including IC 6-1.1-20-3.2) designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals.

~~(c)~~ (e) No action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease shall be instituted at any time later than:

(1) thirty (30) days after publication of notice of the execution of the lease by the board of school trustees, township board, or governing body or bodies of such school corporation or corporations; ~~or~~

(2) if an appeal ~~has been~~ is taken to the department of local government finance, ~~then within~~ not later than thirty (30) days after the decision of the department; ~~or~~

(3) if the petition and remonstrance process is used, not later than thirty (30) days after the county auditor's certificate is filed under subsection (d)(6).

C
o
p
y

